

removable battery are well known and expected in the art and that it would be obvious to one of ordinary skill in the art to have incorporated the use of a smart card in such a cell phone. The official notice taken by the Examiner was without documentary evidence to support the Examiner's conclusion.

Applicant respectfully traverses this rejection and challenges the official notice taken by the Examiner without documentary evidence regarding the concept and use of a smart card with a cell phone having a removable battery with the antenna fixed to the removable battery. According to MPEP 2144.03(a), it is only appropriate to take official notice unsupported by documentary evidence "where the facts [are] well-known, or to be common knowledge in the art [and] capable of instant and unquestionable demonstration as being well-known." Furthermore, "the facts so noticed [should be] of notorious character and serve only to 'fill in the gaps' which might exist in the evidentiary showing made by the examiner." Applicant points out that incorporating within a cell phone *a removable battery with an antenna fixed to the removable battery* does not appear to be of instant and unquestionable demonstration as being well-known.

MPEP 2144.03(c) further states that "if the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding." Applicant requests that if the Examiner is relying on personal knowledge, the Examiner support his finding with an affidavit or declaration.

As a result, because Ito and/or Launay do not disclose a cell phone having a body and a removable battery with an antenna that is fixed to the removable battery, claims 1, 7, and 20 should be in condition for allowance. As claim 2 depends from independent claim 1, claims 8, 11, and 16 depend from claim 7, claims 18-19 depend from claim 17, and claims 21-22, and 24, depend from claim 20, for at least the reasons stated above, claims 2, 8, 11, 16, 18-19, 21-22, and 24 should also be in condition for allowance.

Accordingly, withdrawal of this rejection is respectfully requested.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Dated: December 4, 2007

Respectfully submitted,

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